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EXAMINER

SAWHNEY, HARGOBIND S

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/941,111

Applicant(s)

MAZURSKY ET AL 

Examiner

Hargobind S Sawhney

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 28-33 is/are pending in the application.
- 4a) Of the above claim(s) 27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29,30,32 and 33 is/are allowed.
- 6) ☒ Claim(s) 1-4,9-11,13,17-21,23,26,28 and 31 is/are rejected.
- 7) ☐ Claim(s) 5-8,12,14-16,22,24 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

1. The amendment filed on December 23, 2002 has been entered. Accordingly:
  - Claims 1, 6 and 15 have been amended;
  - Claim 27 has been cancelled; and
  - New claims 29-33 have been added.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 28 is rejected under 35 U.S.C. 102(e) as being anticipated by Chun-Ying (Patent No. 5,964,519).

Chun-Ying (Patent No. 5,964,519) discloses an apparatus for emitting light, sound and fragrance (Figures 2 and 3) comprising:

- the light component 12 including an incandescent bulb (Figure 1, column 2, lines 7 and 8);

- the fragrance component 4 including means for containing— container filled with fluid 41 (Figures 2 and 3, column 2, lines 32-36), and dispensing means 151 (Figures 2 and 3, column 2, lines 13-15); and
- the fragrance dispensing means 151 including the light source with a holder 51 (Figures 2 and 3, column 2, lines 37-39) vaporizing the fragrance (Figures 2 and 3, column 2, lines 32-42).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4,9-11, 13,17-20,23,26 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borri (Patent No. 6,527,402) in view of Muderlak (Patent No. 5,111,477).

Regarding claims 1,13 and 20, Borri ('402) discloses an apparatus 1 (Figures 3-5, column 1, line 53) for emitting light, sound and fragrance comprising:

- a housing 2 (Figures 3-5, column 1, lines 53 and 54;
- a lighting system 10 (Figures 1-5, column 2, lines 1-8), a sound system 10 (abstract, Figures 1-5, column 1, lines 63-67, and column 2, line 1) and a

fragrance system including elements 3 and 4, and contained in the housing 2 (Figures 1-5, column 1, lines 54-58) each positioned in the housing;

Note: the fragrance system hereafter referred as the fragrance system 3,4.

- a means 13 (Figures 3-5, column 2, line 9) energizing the lighting system, a sound system and the fragrance system 3,4, all included in an associated means 10 (Figures 3-5, column 2, lines 14-16);
- the lighting system in the means 10 including a light source 35 (Figure 2, column 2, lines 1-4);
- the sound system included the element 10, and further comprising a circuit board, at least one chip, an amplifier and speakers (Figures 1-5, column 2, lines 62-67, and column 3, line 1);
- the fragrance system including the aperture 3 and a spray 4, casing 2 containing and dispensing fragrance to the surrounding area (Figures 1 and 2, column 1, lines 54-58).

Regarding claims 1 and 20, Borri ('402) further teaches energy means 13 (Figures 3-5, column 2, line 9) including either battery or another powering elements associated with the casing (column 2, lines 14-16). However, Borri ('402) does not specifically teach a plug including contact blades rigidly mounted with respect to the housing. Further Borri ('402) additionally does not teach the plug being rotatable, and accommodating horizontal and vertical plugs

On the other hand, Muderlak (Patent No. 5,111,477) discloses a fragrance diffuser 100 (Figures 1-4, column 4, line 62) comprising:

- a plug including contact blades 206 and 208 (Figures 3 and 4, column 7, lines 7-12) rigidly mounted with respect to the housing; and
- the contact blades 206 and 208 mechanically supporting the apparatus with their insertion in an electric wall socket (Figures 3 and 4).

It would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the apparatus of Borri ('402) by providing the plug as taught by Muderlak ('477) for the benefits and advantages of mounting the apparatus in the desired orientation in a structurally secure manner without using additional supporting elements.

Regarding claims 2-4, Borri ('402) further discloses:

- the lighting, sound and fragrance systems, being included in the means 10 associated with the housing, and activated simultaneously (Figures 1 and 2, column 2, lines 19-21);
- the energizing means being at least one electrical switch 14 (Figures 1 and 2, column 2, lines 19-21, column 3, lines 32-36); and
- the energizing means 14 selectively operating each system independently (Figures 1-3, column 2, lines 59-65).

Regarding claim 9, Borri ('402) further discloses an apparatus for emitting light, sound and fragrance systems, being included in the means 10, and including a light source 35 (Figure 2, column 2, lines 1-4). However, Borri ('402) Borri ('402) does not teach the light source being a strobe light.

It would have been an obvious matter of design choice to replace the light source included in the apparatus disclosed by Borri with a strobe light well known in the art. Since the applicant has not disclosed that the strobe light solves any problem or is for a particular reason, it appears that the claimed invention would perform equally well with a strobe light.

Regarding claims 10 and 11, Borri ('402) further discloses an apparatus for emitting light, sound and fragrance, and additionally including a light source 35 including a light emitting diode (LED) 35 (Figure 2, column 2, lines 1-4) considered herewith as a focus light because of its narrow unidirectional light emitting profile.

Regarding claims 17, 23 and 26, Borri ('402) further discloses:

- the sound chip included in the music system 10, and being permanently mounted on the circuit board (Figures 1-5, column 2, lines 62-67, and column 3, line 1);
- a timing mechanism 21 (Figure 3, column 2, lines 62-65) actuating at least one, lighting, sound and fragrance, systems; and
- the housing 2 (Figures 3-5, column 1, lines 53 and 54) further including a venting means 3 (Figures 1 and 2, column 1, lines 54 and 55) emitting fragrance.

Regarding claim 18, Borri ('402) discloses an apparatus including a sound generator of any known type, either manually operated or operated by an electronic circuit (Figures 1 and 2, column 2, lines 65-67, and column 3, line 1) including a chip mounted on it. Thus, Borri further discloses that the sound generator means including replaceable chips - electronic modules - (Figures 1 and 2, column 3, lines 32-32-34).

Regarding Claim 19, Borri ('402) discloses an apparatus including a control circuit (Figures 1 and 2, column 2, lines 19-21) mounted on a circuit board, the casing 2 bearing the micro switch 14 is considered as a circuit board, controlling the light sound and fragrance systems included in the means 10.

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borri (Patent No. 6,527,402) in view of Muderlak (Patent No. 5,111,477 as applied to Claim 1 above, and further in view of Yoshida et al. (Patent No. 5,982,414).

Borri ('402) in view of Muderlak ('477) discloses an apparatus for emitting light, sound and fragrance being actuated with a local switch. However, neither Borri nor Muderlak teaches the apparatus comprising a remotely actuating device.

On the other hand, Yoshida et al. (Patent No. 5,982,414) discloses a bi-directional signal distributing system for a system furnishing luminance , audio and fragrance for human relaxation (abstract, column 1, lines 35-42). Yoshida further teaches a bi-directional remote actuating system (claims 6,8 and 9).

It would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the apparatus of Borri ('402) in view of Muderlak ('477 by providing the remote actuating system as taught by Yoshida for the benefits and advantages of operational facility and comfort of user.

Regarding Claim 31, Borri ('402) discloses an apparatus 1 (Figures 3-5, column 1, line 53) for emitting light, sound and fragrance comprising:

a housing 2 (Figures 3-5, column 1, lines 53 and 54;



- a lighting system 10 (Figures 1-5, column 2, lines 1-8), a sound system 10 (abstract, Figures 1-5, column 1, lines 63-67, and column 2, line 1) and a fragrance system including elements 3 and 4, and contained in the housing 2 (Figures 1-5, column 1, lines 54-58) each positioned in the housing;

Note: the fragrance system hereafter referred as the fragrance system 3,4.

- a means 13 (Figures 3-5, column 2, line 9) energizing the lighting system 10, a sound system 10 and the fragrance system 3,4 (Figures 3-5, column 2, lines 14-16);
- the lighting system 10 including a light source 35 (Figure 2, column 2, lines 1-4);
- the sound system included the element 10, and further comprising a circuit board, at least one chip, an amplifier and speakers (Figures 1-5, column 2, lines 62-67, and column 3, line 1);
- the fragrance system including the aperture 3 and a spray 4, can 2 containing and dispensing fragrance to the surrounding area (Figures 1 and 2, column 1, lines 54-58).

In addition, Borri ('402) discloses an apparatus including a sound generator of any known type, either manually operated or operated by an electronic circuit (Figures 1 and 2, column 2, lines 65-67, and column 3, line 1) obviously including a chip mounted on it. Thus, Borri further discloses that the sound generator means including replaceable chips - electronic modules - (Figures 1 and 2, column 3, lines 32-32-34).

***Allowable Subject Matter***

7. Claims 5-8,12,14-16,22,24 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record, including Borri (Patent No. 6,527,402), Muderlak (Patent No. 5,111,477) and Yoshida et al. (Patent No. 5,982,414), fails to show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose proper motivation for combining at least a safe light emitting diode lamp comprising:

- an interchangeable faceplate attached to the housing of the device as recited in Claim 5;
- a fragrance dispensing means comprising a light source generating sufficient heat to vaporize the fragrance as recited in Claim 12;
- the fragrance system comprising a combination of a receptacle with neck, a wick, the wick contacting the fragrance fluid, the wick absorbing the worm fragrance fluid, and emitting to the atmosphere as recited in Claim 14;
- optical sensor detecting movement or change in light intensity as recited in Claim 22
- a rheostat included in the housing, and adjusting light sound and fragrance systems as recited in Claim 24; and
- the housing containing perforation or a semi- permeable membrane permitting transmission from the interior of the apparatus as recited in Claim 25.

Claims 6-8 are necessarily objected because of their dependency on the objected base Claim 5.

Claims 15 and 16 are necessarily objected because of their dependency on the objected base Claim 14.

8. Claims 29,30,32 and 33 are allowed.

The prior art of record, including Chun-Ying (U.S. Patent No. 5,964,519) and McCall, Jr. (U.S. Patent No. 6,000,658), fails to show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose proper motivation for combining at least a safe light emitting diode lamp comprising:

- an interchangeable faceplate attached to the housing of the device as recited in Claim 29;
- the fragrance system comprising a combination of a receptacle with neck, a wick, the wick contacting the fragrance fluid, the wick absorbing the worm fragrance fluid, and emitting to the atmosphere as recited in Claim 30;
- optical sensor detecting movement or change in light intensity as recited in Claim 32; and
- a rheostat included in the housing, and adjusting light, sound and fragrance systems as recited in Claim 33.

***Response to Amendment***

9. Applicant's arguments filed on December 23, 2002 have been fully considered but they are not persuasive.

Applicant's arguments with respect to the 35 U.S.C. § 102(b) rejections of claim 8 has been considered but are moot in view of the new ground(s) of rejections.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jaworski et al. (US Patent 6,478,440 B1), DeWitt et al. (US Patent 6,104,866) and Spector (US Patent 4,714,984 and 4,549,250) each discloses a multi-stimuli device comprising a lighting system, a sound system and a fragrance system.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S Sawhney whose telephone number is 703-306-5909. The examiner can normally be reached on 6:15 - 2:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2956.

HSS  
March 10, 2003

Examiner:   
Hargobind S. Sawhney